

seam minus three-eighths inch (0.953 centimeter) and the diameter to be the outside diameter at the double seam minus three-sixteenths inch (0.476 centimeter).

(iii) Calculate the percent fill of the container as follows: Divide the average volume of nuts found according to paragraph (c)(2)(i) of this section by the appropriate container volume found according to paragraph (c)(2)(ii) of this section and multiply by 100. The result shall be considered to be the percent fill of the container.

(3) If shelled nuts fall below the standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill specified in §130.14(b) of this chapter, in the manner and form therein specified.

§ 164.150 Peanut butter.

(a) Peanut butter is the food prepared by grinding one of the shelled and roasted peanut ingredients provided for by paragraph (b) of this section, to which may be added safe and suitable seasoning and stabilizing ingredients provided for by paragraph (c) of this section, but such seasoning and stabilizing ingredients do not in the aggregate exceed 10 percent of the weight of the finished food. To the ground peanuts, cut or chopped, shelled, and roasted peanuts may be added. During processing, the oil content of the peanut ingredient may be adjusted by the addition or subtraction of peanut oil. The fat content of the finished food shall not exceed 55 percent when determined as prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), section 27.006(a) under "Crude Fat—Official First Action, Direct Method," in paragraph (a), which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists International, 481 North Frederick Ave., suite 500, Gaithersburg, MD 20877–2504, or may be examined at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/

code_of_federal_regulations/ibr_locations.html.

(b) The peanut ingredients referred to in paragraph (a) of this section are:

(1) Blanched peanuts, in which the germ may or may not be included.

(2) Unblanched peanuts, including the skins and germ.

(c) The seasoning and stabilizing ingredients referred to in paragraph (a) of this section are suitable substances which are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act (the act), or if they are food additives as so defined, they are used in conformity with regulations established pursuant to section 409 of the act. Seasoning and stabilizing ingredients that perform a useful function are regarded as suitable, except that artificial flavorings, artificial sweeteners, chemical preservatives, and color additives are not suitable ingredients in peanut butter. Oil products used as optional stabilizing ingredients shall be hydrogenated vegetable oils. For the purposes of this section, hydrogenated vegetable oil shall be considered to include partially hydrogenated vegetable oil.

(d) If peanut butter is prepared from unblanched peanuts as specified in paragraph (b)(2) of this section, the name shall show that fact by some such statement as "prepared from unblanched peanuts (skins left on)." Such statement shall appear prominently and conspicuously and shall be in type of the same style and not less than half of the point size of that used for the words "peanut butter." This statement shall immediately precede or follow the words "peanut butter," without intervening written, printed, or graphic matter.

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of parts 101 and 130 of this chapter.

[42 FR 14475, Mar. 15, 1977, as amended at 47 FR 11834, Mar. 19, 1982; 49 FR 10103, Mar. 19, 1984; 54 FR 24896, June 12, 1989; 58 FR 2886, Jan. 6, 1993; 61 FR 9325, Mar. 8, 1996; 63 FR 14035, Mar. 24, 1998]